

# **POST-CONSTRUCTION STORM WATER MANAGEMENT ZONING ORDINANCE TOWN OF WATERFORD**

## **TABLE OF CONTENTS**

### **Foreword**

#### **S.01 Authority**

#### **S.02 Findings of Fact**

#### **S.03 Purpose and Intent**

##### **(1) Purpose**

##### **(2) Intent**

#### **S.04 Applicability and Jurisdiction**

##### **(1) Applicability**

##### **(2) Jurisdiction**

##### **(3) Exclusions**

#### **S.05 Definitions**

#### **S.06 Technical Standards**

#### **S.07 Performance Standards**

##### **(1) Responsible Party**

##### **(2) Plan**

##### **(3) Requirements**

##### **(4) General Consideration for On-Site and Off-Site Storm Water Management Measures**

##### **(5) Location and Regional Treatment Option**

##### **(6) Alternate Requirements**

#### **S.08 Environmentally Sensitive Areas**

#### **S.09 Permitting Requirements, Procedures and Fees**

##### **(1) Permit Required**

##### **(2) Permit Application and Fees**

##### **(3) Review and Approval of Permit Application**

##### **(4) Permit Requirements**

##### **(5) Permit Conditions**

##### **(6) Permit Duration**

#### **S.10 Storm Water Management Plan**

##### **(1) Plan Requirements**

##### **(2) Alternate Requirements**

#### **S.11 Maintenance Agreement**

##### **(1) Maintenance Agreement Required**

##### **(2) Agreement Provisions**

#### **S.12 Financial Guarantee**

##### **(1) Establishment of the Guarantee**

##### **(2) Conditions for Release**

#### **S.13 Fee Schedule**

#### **S.14 Inspection**

#### **S.15 Enforcement**

#### **S.16 Appeals**

##### **(1) Town Board**

##### **(2) Who May Appeal**

#### **S.17 Severability**

#### **S.18 Effective Date**

**AN ORDINANCE TO CREATE CHAPTER  
16 OF THE CODE OF THE TOWN OF  
WATERFORD RELATING TO THE  
CONTROL OF POST-CONSTRUCTION  
RUNOFF**

**FOREWORD**

The intent of this ordinance is to reduce the rate and amount of post-construction storm water and associated pollutants, sediment and runoff reaching waters of the state and/or other properties. Use of this ordinance by municipalities will foster the consistent statewide application of post-construction performance standards for new development and redevelopment contained in subchapters III and IV of chapter NR 151, Wis. Adm. Code.

The Town Board of Supervisors of the Town of Waterford does hereby ordain that Chapter 16 of the code of the Town of Waterford is created to read as follows:

## **CHAPTER 16**

### **POST-CONSTRUCTION STORM WATER MANAGEMENT**

#### **S.01 AUTHORITY**

(1) This ordinance is adopted by the Town of Waterford under the authority granted by s. 60.627, for Towns, Wis. Stats. This ordinance supersedes all provisions of any previously enacted ordinance relating to storm water management regulation. Except as otherwise specified in s. 60.627, Wis. Stats., s. 60.62, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

(2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.

(3) The Town Board of Supervisors hereby designates the Town of Waterford and/or its designees to administer and enforce the provisions of this ordinance.

(4) The requirements of this ordinance do not preempt more stringent storm water management requirements that may be imposed by any of the following:

(a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.

(b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

(c) Town of Waterford

(d) Racine County

#### **S.02 FINDINGS OF FACT**

The Town Board of Supervisors finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, but not limited to the following, uncontrolled post-construction runoff can:

(1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.

(2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.

(3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.

(4) Reduce the quality of groundwater by increasing pollutant loading.

(5) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.

(6) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.

(7) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

#### **S.03 PURPOSE AND INTENT**

(1) **PURPOSE.** The purpose of this ordinance is to establish long-term, post-construction storm water runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:

(a) Further the maintenance of safe and healthful conditions.

(b) Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.

(c) Control exceedance of the safe capacity of existing drainage facilities and water receiving bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.

(2) **INTENT.** It is the intent of the Town Board of Supervisors that this ordinance regulates post-construction storm water discharges. It is further the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

## **S.04 APPLICABILITY AND JURISDICTION**

(1) **APPLICABILITY.**

(a) This ordinance applies to post-construction sites of any size that have resulted or are likely to result, in the opinion of the Town of Waterford, in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water; that causes undue channel erosion; that increases water pollution by scouring or the transportation of particulate matter; or that endangers property or public

safety unless the site is otherwise exempt under paragraph (b).

(b) A site that meets any of the criteria in this paragraph is exempt from the requirements of this ordinance.

1. A redevelopment post-construction site with no increase in exposed impervious surface area.

2. A post-construction site with less than 10% connected imperviousness based on complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one acre.

3. Nonpoint discharges from agricultural facilities and practices.

4. Nonpoint discharges from silviculture activities.

5. Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

6. Underground utility construction such as water, sewer and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.

(2) **JURISDICTION.** This ordinance applies to post-construction sites within the boundaries and jurisdiction of the Town of Waterford.

(3) **EXCLUSIONS.** This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the State plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

## **S.05 DEFINITIONS**

- (1) “Administering authority” means a governmental employee or appointee/designee, or a regional planning commission empowered under s. 60.627, Wis. Stats. and designated by the Town of Waterford to administer this ordinance.
- (2) “Agricultural facilities and practices” has the meaning given in s. 281.16, Wis. Stats.
- (3) “Average annual rainfall” means a calendar year of precipitation, excluding snow, which is considered typical.
- (4) “Best management practice” or “BMP” means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the State.
- (5) “Business day” means a day the offices of the Town Hall is routinely and customarily open for business.
- (6) “Cease and desist order” means a court-issued order to halt land-disturbing construction activity that is being conducted without the required permit.
- (7) “Combined sewer system” means a system for conveying both sanitary sewage and storm water runoff.
- (8) “Connected imperviousness” means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.
- (9) “Construction site” means an area upon which one or more land-disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land-disturbing construction activities may be taking place at different times on different schedules but under one plan
- (10) “Design storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
- (11) “Development” means residential, commercial, industrial or institutional land uses and associated roads.
- (12) “Division of land” means the partitioning of one parcel into two or more parcels or building sites.
- (13) “Effective infiltration area” means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (14) “Erosion” means the process by which the land’s surface is worn away by the action of the wind, water, ice or gravity.
- (15) “Erosion and sediment control plan” means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.
- (16) “Exceptional resource waters” means waters listed in s. NR 102.11, Wis. Adm. Code.
- (17) “Extraterritorial” means the unincorporated area within 3 miles of the corporate limits of a first, second or third class city, or within 1.5 miles of a fourth class city or Town.
- (18) “Final stabilization” means that all land-disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 80 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures.
- (19) “Financial guarantee” means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees

submitted to the Town of Waterford by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.

(20) “Governing body” means the Town of Waterford Board of Supervisors.

(21) “Impervious surface” means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious.

(22) “In-fill area” means an undeveloped area of land located within existing development.

(23) “Infiltration” means the entry of precipitation or runoff into or through the soil.

(24) “Infiltration system” means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

(25) “Karst feature” means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

(26) “Land-disturbing construction activity” means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion runoff and movement of sediment into waters of the state. Land-disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

(27) “Maintenance agreement” means a legal document that provides for long-term maintenance of storm water management practices.

(28) “MEP” or “maximum extent practicable” means a level of implementing best management practices in order to achieve a performance standard specified in this ordinance which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

(29) “New development” means development resulting from the conversion of previously undeveloped land or agricultural land uses.

(30) “Off-site” means located outside the property boundary described in the permit application.

(31) “On-site” means located within the property boundary described in the permit application.

(32) “Ordinary high-water mark” has the meaning given in s. NR 115.03(6), Wis. Adm. Code.

(33) “Outstanding resource waters” means waters listed in s. NR 102.10, Wis. Adm. Code.

(34) “Percent fines” means the percentage of a given sample of soil, which passes through a #200 sieve.

(35) “Performance standard” means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

(36) “Permit” means a written authorization made by the Town of Waterford to the applicant

to conduct land-disturbing construction activity or to discharge post-construction runoff to waters of the State.

(37) “Permit administration fee” means a sum of money paid to the Town of Waterford by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

(38) “Pervious surface” means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

(39) “Pollutant” has the meaning given in s. 283.01(13), Wis. Stats.

(40) “Pollution” has the meaning given in s. 281.01(10), Wis. Stats.

(41) “Post-construction site” means a construction site following the completion of land-disturbing construction activity and final site stabilization.

(42) “Pre-development condition” means the extent and distribution of land cover types present before the initiation of land-disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

(43) “Preventative action limit” has the meaning given in s. NR 140.05(17), Wis. Adm. Code.

(44) “Redevelopment” means areas where development is replacing older development.

(45) “Responsible party” means any entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.

(46) “Runoff” means storm water or precipitation including rain, snow or ice melt or

similar water that moves on the land surface via sheet or channelized flow.

(47) “Sediment” means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

(48) “Separate storm sewer” means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutter, ditches, constructed channels or storm drains, which meets all of the following criteria:

(a) Is designed or used for collecting water or conveying runoff.

(b) Is not part of a combined sewer system.

(c) Is not draining to a storm water treatment device or system.

(d) Discharges directly or indirectly to waters of the State.

(49) “Site” means the entire area included in the legal description of the land on which the land-disturbing construction activity occurred.

(50) “Stop work order” means an order issued by the Town of Waterford requiring that all construction activity on the site be stopped.

(51) “Storm water management plan” means a comprehensive plan designed to reduce the flow rate, runoff volume, and discharge of pollutants from storm water after the site has undergone final stabilization following completion of the construction activity.

(52) “Storm water management system plan” is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

(53) “Technical standard” means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

(54) “Top of the channel” means an edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

(55) “TR-55” means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.

(56) “Type II distribution” means a rainfall type curve as established in the “United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973”. Rainfall depths shall be consistent with Technical Report 40, “Rainfall Frequency in the Southeastern Wisconsin Region”, SEWRPC, April, 2000.

(57) “Waters of the state” has the meaning given in s. 281.01 (18), Wis. Stats.

## **S.06 TECHNICAL STANDARDS**

The following methods shall be used in designing and meeting the performance standards for the storm water management plan:

(1) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.

(2) Where technical standards have not been identified or developed by the Wisconsin

Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the Town of Waterford.

(3) Technical engineering standards administered and/or approved by the Town of Waterford.

(4) Technical standards maintained by the Wisconsin Department of Natural Resources on their internet site, [www.dnr.state.wi.us](http://www.dnr.state.wi.us).

(5) In this ordinance, the following year and location has been selected as average annual rainfall: Milwaukee 1969 (Mar. 28-Dec. 6).

## **S.07 PERFORMANCE STANDARDS.**

(1) RESPONSIBLE PARTY. The responsible party shall implement a post-construction storm water management plan in accordance with S.10 that incorporates the requirements of this section.

(2) PLAN. A written storm water management plan in accordance with S.10 shall be developed and implemented for each post-construction site.

(3) REQUIREMENTS. The plan required under sub. (2) shall include the following:

(a) TOTAL SUSPENDED SOLIDS. BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:

1. For new development, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subdivision.

2. For redevelopment, by design, reduce to the maximum extent practicable, the total suspended



solids load by 40%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subdivision.

3. For in-fill development under 5 acres that occurs within 10 years after October 1, 2002, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subdivision.

4. For in-fill development that occurs 10 or more years after October 1, 2002, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subdivision.

5. Notwithstanding subs. 1. to 4., if the design cannot achieve the applicable total suspended solids reduction specified, the storm water management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

**(b) PEAK DISCHARGE.**

1. By design, storm water management practices shall be employed to reduce the 24 hour, post-development runoff rate to the 24 hour, pre-development runoff rate for all storm events. Pre-development conditions shall assume “good hydrologic conditions” for appropriate land covers as identified in TR-55 or an equivalent methodology. The meaning of “hydrologic soil group” and “runoff curve number” are as determined in TR-55. However, when pre-development land cover is cropland, rather than

using TR-55 values for cropland, the runoff curve numbers in Table 1 shall be used.

**Table 1 – Maximum Pre-Development Runoff Curve Numbers for Cropland Areas**

Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	56	70	79	83

2. By design, storm water management practices shall be employed to meet peak discharge requirements of any Town adopted Storm Water Management Plans for specific areas or watersheds where applicable.

3. This subsection S.07(3)(b) of the ordinance does not apply to any of the following:

a. A redevelopment post-construction site, if the impervious surface area of the redevelopment is not increased from existing conditions.

b. An in-fill development area less than 5 acres, unless determined otherwise by the Town per section S.04(1c).

(c) INFILTRATION. BMPs shall be designed, installed, and maintained to infiltrate runoff to the maximum extent practicable in accordance with the following, except as provided in subs. 5. through 8.

1. For residential developments one of the following shall be met:

a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1%(or such larger percentage if determined by the Town Engineer) of the project site is required as an effective infiltration area.

b. Infiltrate 25% of the post-development runoff from the 2-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used

to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 1%(or such larger percentage if determined by the Town Engineer) of the project site is required as an effective infiltration area.

2. For non-residential development, including commercial, industrial and institutional development, one of the following shall be met:

a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2%(or such larger percentage if determined by the Town Engineer) of the project site is required as an effective infiltration area.

b. Infiltrate 10% of the runoff from the 2-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2%(or such larger percentage if determined by the Town Engineer) of the project site is required as an effective infiltration area.

3. Pre-development condition shall be the same as in par. (b).

4. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subd. 8. Pretreatment options may include, but are not limited to, oil/grease separation,

sedimentation, biofiltration, filtration, swales or filter strips.

5. EXCLUSIONS. The runoff from the following areas are prohibited from meeting the requirements of this paragraph:

a. Areas associated with tier 1 industrial facilities identified in s. NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.

b. Storage and loading areas of tier 2 industrial facilities identified in s. NR216.21(2)(b), Wis. Adm. Code.

c. Fueling and vehicle maintenance areas.

d. Areas within 1000 feet upgradient or within 100 feet downgradient of Karst features.

e. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subd. 5.e. does not prohibit infiltration of roof runoff.

f. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.

g. Areas within 400 feet of a community water system well as specified in s. NR811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in s. NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.

h. Areas where contaminants of concern, as defined in s. NR 720.03(2), Wis. Adm. Code are present in the soil through which infiltration will occur.

i. Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a 3-foot soil layer with 20% fines or greater; or at least a 5-foot soil layer with 10% fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This sub. 5.i. does not prohibit infiltration of roof runoff.

6. EXEMPTIONS. The following are not required to meet the requirements of this paragraph:

- a. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.
- b. Parking areas and access roads less than 4,000 square feet for commercial and industrial development.
- c. Redevelopment post-construction sites.
- d. In-fill development areas less than 5 acres.
- e. Infiltration areas during periods when the soil on the site is frozen.
- f. Roads in commercial, industrial and institutional land uses, and arterial residential roads.

## 7. INFILTRATION SYSTEMS.

a. Infiltration systems designed in accordance with this paragraph shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventative action limit at a point of standards application in accordance with ch. NR 140, Wis. Adm. Code. However, if site specific information indicates that compliance with a preventative action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

b. Notwithstanding sub. par. a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

(d) PROTECTIVE AREAS. The following are minimum standards for protective areas. The Town, however, may impose greater limits based on site specific information.

1. "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this paragraph, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

a. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resources interest as specified in s. NR 103.04, 75 feet.

b. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.

c. For lakes, 50 feet.

d. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with s. NR 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands

that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

e. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.

f. In subd. 1.a., d. and e., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03.

g. For concentrated flow channels with drainage areas greater than 130 acres, 20 feet.

2. This paragraph applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. 4.

3. The following requirements shall be met:

a. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.

b. Where land-disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 80% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

c. Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.

4. This paragraph does not apply to:

a. Redevelopment post-construction sites, if meeting the protective area standards is deemed impractical by the Town.

b. In-fill development areas less than 5 acres, if meeting the protective area standards is deemed impractical by the Town.

c. Structures that cross or access surface waters such as boat landings, bridges and culverts.

d. Structures constructed in accordance with s. 59.692(1v), Wis. Stats.

e. Post-construction sites from which runoff does not enter the protective area's surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability and is deemed acceptable to the Town.

(e) **FUELING AND VEHICLE MAINTENANCE AREAS.** Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

(f) **SWALE TREATMENT FOR TRANSPORTATION FACILITIES.**

1. **APPLICABILITY.** Except as provided in sub. 2., transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:

a. Be vegetated. However, where appropriate, non-vegetative measures may be employed to

prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.

b. Carry runoff through a swale for 200 feet or more in length that is designed with a flow velocity no greater than 1.5 feet per second for the peak flow generated using either a 2-year, 24-hour design storm or a 2-year storm with a duration equal to the time of concentration as appropriate. If a swale of 200 feet in length cannot be designed with a flow velocity of 1.5 feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable.

2. EXEMPTIONS. The Town of Waterford may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2500 and where the initial surface water of the state that the runoff directly enters is any of the following:

- a. An outstanding resource water.
- b. An exceptional resource water.
- c. Waters listed in s. 303(d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to nonpoint source impacts.
- d. Waters where targeted performance standards are developed under s. NR 151.004, Wis. Adm. Code, to meet water quality standards.

(g) STORM SEWERS AND CULVERTS.

- 1. Storm Sewers and culverts shall be designed for a 10-year storm event as defined by the Southeastern Wisconsin Planning Commission (SEWRPC).
- 2. Storm Sewers shall be designed to be self cleaning with a minimum velocity of 2 ft/second and a maximum velocity of 12 ft/second.

(4) GENERAL CONSIDERATIONS FOR ON-SITE AND OFF-SITE STORM WATER

MANAGEMENT MEASURES. The following considerations shall be observed in managing runoff.

(a) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.

(b) Emergency overland flow routes for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(5) LOCATION AND REGIONAL TREATMENT OPTION.

(a) All BMPs may be located on-site or off-site as part of a regional storm water device, practice or system.

(b) Post-construction runoff within a non-navigable surface water that flows into a Regional BMP, such as a wet detention pond, is not required to meet the performance standards of this ordinance. Post-construction BMPs may be located in non-navigable surface waters.

(c) Except as allowed under par. (d), post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.

(d) Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this ordinance if:

- 1. The BMP was constructed prior to the effective date of this ordinance and the BMP either received a permit issued under ch. 30, Stats., or the BMP did not require a ch. 30, Wis. Stats., permit; and

2. The BMP is designed to provide runoff treatment from future upland development.

(e) Runoff from existing development, redevelopment and in-fill areas shall meet the post-construction performance standards in accordance with this paragraph.

1. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.

2. Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as ch. NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.

(f) The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this chapter.

(g) The Town of Waterford may approve off-site management measures provided that all of the following conditions are met:

1. The Town of Waterford determines that the post-construction runoff is covered by a storm water management system plan that is approved by the Town of Waterford and that contains management requirements consistent with the purpose and intent of this ordinance.

2. The off-site facility meets all of the following conditions:

a. The facility is in place.

b. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.

c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

(h) Where a regional treatment option exists such that the Town of Waterford exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the Town of Waterford. In determining the fee for post-construction runoff, the Town of Waterford shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(6) **ALTERNATE REQUIREMENTS.** The Town of Waterford may establish storm water management requirements more stringent than those set forth in this section if the Town of Waterford determines that an added level of protection is needed to protect sensitive resources.

## **S.08 ENVIRONMENTALLY SENSITIVE AREAS**

For any area determined by the Town to be environmentally sensitive more stringent water management requirements may be imposed.

## **S.09 PERMITTING REQUIREMENTS, PROCEDURES AND FEES**

(1) **PERMIT REQUIRED.** No responsible party may undertake a land-disturbing construction activity without receiving a post-construction runoff permit from the Town of Waterford prior to commencing the proposed activity. This requirement may only apply if a Construction Site Erosion Control permit was initially required and only if required by the Town Engineer.

(2) **PERMIT APPLICATION AND FEES.** At least one responsible party desiring to undertake a land-disturbing construction activity subject to this ordinance shall submit an application for a permit and a written erosion and sediment

control plan that meets the requirements of S.07 and S.10 and shall pay an application fee as required in S. 12 to the Town of Waterford. By submitting an application, the applicant is authorizing the Town of Waterford to enter the site to obtain information required for the review of the erosion and sediment control plan.

(a) Unless otherwise excepted by this ordinance, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a non-refundable permit administration fee.

(b) The storm water management plan shall be prepared to meet the requirements of S.07 and 10, the maintenance agreement shall be prepared to meet the requirements of S.11, the financial guarantee shall meet the requirements of S.12, and fees shall be those established by the Town of Waterford as set forth in S.13.

(3) REVIEW AND APPROVAL OF PERMIT APPLICATION. The Town of Waterford Engineer shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:

(a) Within 20 business days of the receipt of a complete permit application, as required by sub. (2), the Town of Waterford shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.

(b) If the storm water permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the Town of Waterford shall issue the permit.

(c) If the storm water permit application, plan or maintenance agreement is disapproved, the Town of Waterford shall detail in writing the reasons for disapproval.

(d) The Town of Waterford may request additional information from the applicant. If additional information is submitted, the Town of Waterford shall have 20 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

(e) Failure by the Town of Waterford to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

#### (4) PERMIT REQUIREMENTS.

All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The Town of Waterford may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Town of Waterford to suspend or revoke this permit may be appealed in accordance with S.16.

(a) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.

(b) The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit.

(c) The responsible party shall notify the Town of Waterford at least 5 business days before commencing any work in conjunction with the storm water management plan, and within 5 business days upon completion of the storm water management practices. If required as a special condition under sub. (5), the responsible

party shall make additional notification according to a schedule set forth by the Town of Waterford so that practice installations can be inspected during construction.

(d) Practice installations required as part of this ordinance shall be certified “as built” by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the Town of Waterford or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The Town of Waterford or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.

(e) The responsible party shall notify the Town of Waterford of any significant modifications it intends to make to an approved storm water management plan. The Town of Waterford may require that the proposed modifications be submitted for approval prior to incorporation into the storm water management plan and execution by the responsible party.

(f) The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of the Town of Waterford, or are transferred to subsequent private owners as specified in the approved maintenance agreement.

(g) If the responsible party fails to maintain all storm water management practices, the Town of Waterford may perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and make a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wis. Stats., or charge such costs against the financial guarantee posted under S.11.

(h) If so directed by the Town of Waterford, the responsible party shall repair at the responsible

party’s own expense all damage to adjoining municipal facilities; municipal drainage ways; detention/retention ponds; and similar facilities caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan or where BMP’s have failed regardless of the cause.

(i) The owner of the property specifically grants unto the Town of Waterford and/or its designee the right to enter upon the owner’s land for purposes of inspection and/or remedial action as stated above and in furtherance of the purpose and/or intent of this ordinance.

(j) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the Town of Waterford may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.

(k) The responsible party is subject to the enforcement actions and penalties detailed in S.15, if the responsible party fails to comply with the terms of this permit.

(5) PERMIT CONDITIONS. Permits issued under this subsection may include conditions established by the Town of Waterford in addition to the requirements needed to meet the performance standards in S.07 or a financial guarantee as provided for in S.11.

(6) PERMIT DURATION. Permits issued under this section shall be valid from the date of issuance through the date the Town of Waterford notifies the responsible party that all storm water management practices have passed the final inspection required under sub. (4)(d) or for 180 days, whichever is longer. The Town of Waterford may extend the period one or more times for up to an additional 180 days. The Town of Waterford may require additional BMPs as a condition of the extension.



## **S.10 STORM WATER MANAGEMENT PLAN**

(1) **PLAN REQUIREMENTS.** The storm water management plan required under S.10 (2) shall contain at a minimum the following information:

(a) Name, address, daytime and emergency telephone numbers for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.

(b) A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.

(c) Pre-development site conditions, including:

1. One or more site maps at a scale of no less than 1 inch to 50 feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a minimum of 2 foot contour intervals; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to s. NR 811.16, Wis. Adm. Code.

2. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).

(d) Post-development site conditions, including:

1. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.

2. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.

3. One or more site maps at a scale of not less than 1 inch equals 50 feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a minimum contour interval of 2 feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.

4. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).

5. Results of investigations of soils and groundwater required for the placement and design of storm water management measures. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.

(e) Construction specifications, description and installation schedule for the storm water management practices needed to meet the performance standards in S.07.

(f) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.

(g) Cost estimates for the construction, operation, and maintenance of each storm water management practice.

(h) Typed written narrative for BMP design(s) including a description design procedures, software used and computer model schematics, flow rates, design results, and any relative information or assumptions used for the design.

(i) Other information requested in writing by the Town of Waterford and/or its designee to determine compliance of the proposed storm water management measures with the provisions of this ordinance.

(j) All site investigations, plans, designs, computations, and drawings shall be certified by a Wisconsin-licensed professional engineer to have been prepared in accordance with accepted engineering practice and requirements of this ordinance

(2) **ALTERNATE REQUIREMENTS.** The Town of Waterford may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under S.07 (5).

(3) **AMENDMENTS.** The applicant shall amend the plan if any of the following occur:

(a) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.

(b) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.

(c) The Town of Waterford notifies the applicant of changes needed in the plan.

## **S.11 MAINTENANCE AGREEMENT**

(1) **MAINTENANCE AGREEMENT REQUIRED.** The maintenance agreement required under S.11 (2) for storm water management practices shall be an agreement between the Town of Waterford and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices.

(2) **AGREEMENT PROVISIONS.** The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by S.10(1)(f):

(a) Identification of the storm water facilities and designation of the drainage area served by the facilities.

- (b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under S.10 (2).
- (c) Identification of the responsible party(s), organization and/or the Town responsible for long term inspection and maintenance of the storm water management practices identified in the storm water management plan required under S.10 (2).
- (d) Requirement that the responsible party(s), organization and/or the Town shall maintain storm water management practices in accordance with the schedule included in par. (b).
- (e) Authorization for the Town of Waterford to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
- (f) Agreement that the party designated under par. (c), as responsible for long-term inspection and maintenance of the storm water management practices, if notified by the Town of Waterford of maintenance problems which require correction, undertake corrective within a reasonable time frame as set by the Town of Waterford.
- (g) Authorization of the Town of Waterford to perform the corrected actions identified in the Town notification under par. (g), if the responsible party designated under par. (c) does not make the required corrections in the specified time period. The Town of Waterford shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subch. VII of ch. 66, Wis. Stats.

## **S.12 FINANCIAL GUARANTEE**

(1) ESTABLISHMENT OF THE GUARANTEE. The Town of Waterford shall

require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Town of Waterford. The financial guarantee shall be in an amount of 125% of the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the Town of Waterford the authorization to access the subject property for inspection and remedial purposes and to use the funds to complete the storm water management practices, or restore the project site as deemed fit by the Town, if the responsible party defaults or does not properly implement the approved storm water management plan, upon written notice to the responsible party by the administering authority that the requirements of this ordinance have not been met.

(2) CONDITIONS FOR RELEASE. Conditions for the release of the financial guarantee are as follows:

- (a) The Town of Waterford shall release the portion of the financial guarantee established under this section, less any costs incurred by the Town of Waterford to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The Town of Waterford may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
- (b) The Town of Waterford shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the Town of Waterford, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

## **S.13 FEE SCHEDULE**

(1) The fees referred to in other sections of this ordinance shall be established by the Town of Waterford and may from time to time be modified by resolution. A schedule of the fees established by the Town of Waterford shall be available for review in the Town Hall

(2) Projects of one (1) acre or less - \$75

(3) Projects of more than one (1) acre - \$75 per acre

(4) Additional fees may be assessed by the Town of Waterford on a case-by-case basis based upon the unique requirements of each project.

#### **S.14 INSPECTION**

(1) If land-disturbing construction activities are being carried out without a permit required by this ordinance, the Town of Waterford may enter the land pursuant to the provisions of ss. 66.0119(1), (2), and (3), Wis. Stats.

(2) Inspection of the erosion and sediment controls shall be completed by the Town Engineer or a designee of the Town Board. All fees associated with the inspection costs shall be paid by the responsible party to the Town of Waterford

#### **S.15 ENFORCEMENT**

(1) Any land-disturbing construction activity or post-construction runoff initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.

(2) The Town of Waterford shall notify the responsible party by certified mail of any non-complying land-disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial

actions needed, a schedule of remedial action, and additional enforcement action which may be taken.

(3) Upon receipt of written notification from the Town of Waterford under sub. (2), the responsible party shall correct work that does not comply with the storm water management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the Town of Waterford in the notice.

(4) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the Town of Waterford may enter the land and take emergency actions necessary to prevent such damage. The costs of the work performed under this subsection by the Town of Waterford, plus interest plus reasonable attorney and engineering fees, shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to subch. VII of ch. 66, Wis. Stats.

(5) The Town of Waterford may post a stop work order on all land-disturbing construction activity that is in violation of this ordinance, or request the municipal attorney to obtain a cease and desist order in any court with jurisdiction.

(6) The Town of Waterford may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.

(7) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Town of Waterford or by a court with jurisdiction.

(8) The Town of Waterford is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the municipal attorney for the

commencement of further legal proceedings in any court with jurisdiction.

(9) Any person, firm, association, or corporation (failing to) comply with the provisions of this ordinance shall be subject to a forfeiture of not less than 500 dollars or more than 1,000 dollars per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.

(10) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or to obtain a cease and desist order before resorting to an injunction proceeding.

(11) When the Town of Waterford determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the storm water management plan, or has failed to comply with schedules set forth in said storm water management plan, the Town of Waterford or a party designated by the Town of Waterford may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The Town of Waterford shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to S.12 of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

(12) At its sole discretion, the Town or its designee(s) charged with enforcing this ordinance may determine which (if any) provisions of this ordinance apply to proposed project. The Town or its designee(s) may waive

any or all provisions of this ordinance for a proposed project.

## **S.16 APPEALS**

(1) The Town board shall hear and consider appeals made as follows:

(a) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Town of Waterford in administering this ordinance except for cease and desist orders obtained under S.12 (3).

(b) Upon appeal, the board may authorize variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and

(c) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

(2) WHO MAY APPEAL. Appeals to the board may be taken by any aggrieved person or by any officer, department, board, or bureau of the Town of Waterford affected by any decision of the Town of Waterford made under this ordinance.

## **S.17 SEVERABILITY**

If a court of competent jurisdiction judges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of the ordinance shall remain in force and shall not be affected by such judgment.

## **S.18 EFFECTIVE DATE**

This ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing ordinance was duly adopted

by the Town Board of Supervisors of the Town  
of Waterford on the 9<sup>th</sup> day of February, 2009.

Approved: \_\_\_\_\_

Attested: \_\_\_\_\_

Posted on \_\_\_\_\_